

**MINUTES OF THE
PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE**
Thursday, November 3, 2005 – 9:00 a.m. – Room W135 House Building

Members Present:

Sen. Michael G. Waddoups, Senate Chair
Rep. David Clark, House Chair
Sen. Gene Davis
Sen. Peter C. Knudson
Sen. Mark B. Madsen
Sen. Ed Mayne
Rep. Jackie Biskupski
Rep. Stephen D. Clark
Speaker Greg J. Curtis
Rep. Brad L. Dee
Rep. James A. Dunnigan
Rep. Patricia W. Jones
Rep. Bradley G. Last
Rep. Rebecca D. Lockhart

Members Absent:

Sen. John W. “Bill” Hickman

Staff Present:

Constance C. Steffen, Policy Analyst
Allison Morgan, Policy Analyst
Catherine J. Dupont, Associate General Counsel
Patricia Owen, Associate General Counsel
Joy L. Miller, Legislative Secretary

Note: A list of others present, copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Task Force Business

Chair Waddoups called the meeting to order at 9:20 a.m.

MOTION: Rep. Dee moved to approve the minutes of the October 24, 2005 meeting. The motion passed unanimously. Sen. Davis and Sen. Madsen were absent for the vote.

2. Physician Panel Discussion

A panel of physicians was convened to discuss issues of concern to physicians.

Dr. Paul Winterton, orthopedic surgeon, discussed the difficulty in getting on an insurance panel upon moving to Utah, even though he had extensive training and qualifications. He was recruited to work at Rocky Mountain Medical Center, which closed. He attributed it to Altius and Cigna not covering Rocky Mountain Medical Center due to pressure from St. Mark's Hospital. Dr. Winterton stated that health care management is creating enmity between the patient and the doctor.

Dr. Craig Armstrong, Cache Valley pediatrician, pointed out that IHC hospitals and physician clinics are the main providers of medical care in Cache Valley. Dr. Armstrong stated that IHC policies regarding SelectMed have been harmful to his and other independent practices. He noted that most people apply for the cheapest plan available, and in Cache Valley it is often a SelectMed plan. Dr. Armstrong said his income in the past two years has decreased by nearly 1/3. The number of new babies he has received as patients from the hospital has decreased by nearly half since 2002. He indicated that IHC is involved in a form of economic credentialing by not allowing independent pediatricians and obstetricians to be on its SelectMed panel. IHC is getting much more than its share of business in Cache Valley because of

integrated control of health plans, physicians, and the hospital.

Dr. David Boorman, St. George, stated that there is a very large group of physicians who want to provide health care without being an employee of IHC. They want to be able to compete on a level playing field. He said almost all of the health plans available in southern Utah are either IHC plans or are administered by IHC. Access to the hospital in the area is the threat over the plans that are not administered by IHC. It creates an unfair advantage in a closed community where there are no other options for places to practice, and the patient pool is limited by access to health plans. Dr. Boorman stated that the IHC physicians division should win patients because they are better and provide better quality, not because they have patients directed to them.

Dr. Linda Leckman, general surgeon, IHC, said she was asked to participate with a group of physicians working with the senior management of IHC to determine what should be the relationship of physicians with IHC to develop initiatives that could improve the delivery of quality care. The group considered many options, and from those options came the recommendation that there be an employed group of physicians within IHC. She explained that the physician group was developed to: 1) establish a physician group that would provide a foundation for clinical quality improvement initiatives; 2) advance IHC's mission through improved patient access to care; 3) develop an electronic medical record; and 4) recruit physicians who are needed in the community. She briefly outlined IHC's four different health plans and explained that the SelectMed plan is intended to be a smaller panel for decreased premiums. The size of a health plan's panel will have an impact on medical expenses, according to Dr. Leckman. She stated that IHC's physician division's compensation from the various health plans is the same as any other physician's compensation.

Dr. Leckman discussed the compensation system for employed physicians. Ten percent of pay is withheld pending the achievement of budgetary goals. IHC has a bonus system for physicians. In order to obtain a bonus, a physician must execute a clinical quality improvement project, carry out a project regarding financial improvement within the clinic, and attend IHC's coding, liability, and compliance courses.

Dr. Catherine Wheeler, President, UMA (Utah Medical Association), indicated that costs continue to escalate rapidly yet reimbursements are not negotiable. It puts a lot of pressure on independent physicians to no longer be independent. She stressed the need to attract doctors nationally which will require viable reimbursement rates, autonomy, and patient access to physicians. Dr. Wheeler expressed concern with Blue Cross/Blue Shield doing away with ambulatory care contracts, stating it will make it difficult for facilities to compete and will hamper the ability of hospitals to recruit doctors into the state. She encouraged the Task Force do the following: 1) study patient access to care, 2) separate out physician, hospital, and nonfacility costs, 3) review the number of doctors that may be employed within a community, 4) consider open access panels, 5) address antitrust issues, and 6) increase Medicaid reimbursement by 10 percent.

Dr. Tom Dickenson, gastroenterologist, stated that in Utah County, IHC has become more of a facility-driven model of health care rather than community driven. He asserted that IHC controls 60-70 percent of the private patient population in Utah County. The failure of IHC to focus on communitywide concerns

over the years has resulted in numerous adverse consequences for health care in Utah County as it relates to duplicate services being provided, unmet community needs, and physician relationships and recruitment in the community. He stressed the need to consider the impact of IHC outside the system. He recommended that IHC identify strategic partners outside its corporate umbrella and partner with them in addressing the health care needs of the population. IHC Health Plans division should contract with any provider that satisfies its utilization cost and quality concerns. He said that shared accountability between health plans and independent providers should be encouraged and developed. The Legislature should strongly consider whether the current mandates best serve their citizens' health care needs.

Dr. Dickenson added that the current methodologies to evaluate nonprofit status are outdated and at odds with the original intent. True charitable health care should be redefined in today's market.

Dr. Terry Finlayson, Cache Valley orthopedic surgeon and President-elect, Utah State Orthopedic Society, stated that IHC continues to recruit more orthopedic surgeons into a community that is already saturated with orthopedic surgeons. The community is and has been in desperate need of other specialists. The response from IHC has often been that it would be an expensive duplication of services that are already available within the IHC system in Ogden and Salt Lake City. Logan Regional Hospital's system is substandard for a community of Logan's size given its geographical isolation, asserted Dr. Finlayson. IHC controls patient flow which makes it impossible for independent physicians or groups to compete on a level playing field. Any willing provider legislation to open access to the panels would be beneficial.

Rep. D. Clark pointed out that IHC's size gives it a distinct advantage in directability. He referred to information obtained from Jeff Hawley, Department of Insurance. Health insurers within the state were asked to voluntarily provide information by zip code indicating where insured individuals are living. They received information that covered 52 percent of the state's population. It provides significant information about market share. He indicated he would provide the information to the members of the Task Force after the meeting.

Rep. S. Clark indicated that he would send a strong message to IHC to develop a resolution to the issues that have been raised.

Sen. Mayne stated that more managed care has led to a lower quality of health care. The Task Force may need to focus on panel access and on any willing provider process.

Sen. Madsen proposed that the Task Force recommend ongoing oversight of the issues that have been discussed.

3. Utah Health Care Markets Proposals

Ms. Steffen distributed a response from Robert Cameron, Director, LECG LLC, concerning the issue of a possible conflict of interest. She explained that Mr. Doug Hammer, IHC, notified her that a member of LECG's Salt Lake office represented optometrists in a case they filed against IHC and some ophthalmologists. The employee in question assessed the damages that might be owing to optometrists, because they were excluded from IHC panels. The optometrists lost the initial case, but have appealed.

Ms. Steffen called LECG for a response. She noted that LECG has indicated that its revenue from Utah is very small, so it does not feel there is a conflict of interest.

Mr. Hammer stated that LECG is a competent and qualified firm. He noted that Mr. Rick Hofmann, an employee of LECG, served as an expert witness in the case against IHC. Judge Bruce Jenkins ruled in favor of IHC and the ophthalmologists. The plaintiff optometrists have appealed to the U.S. 10th Circuit Court of Appeals in Denver. The case will be argued in January 2006. If the case is to be remanded to the U.S. District Court, Mr. Hofmann would again have to give testimony as an expert witness. For that reason, IHC is concerned that LECG has a significant conflict of interest.

MOTION: Rep. Lockhart moved to accept the McGuireWoods Compass Proposal.

Rep. Lockhart explained that she felt the proposal would provide more information that is not already known. Other RFPs seemed to be highly focused on the antitrust issue.

SUBSTITUTE MOTION: Rep. Dunnigan moved to authorize staff and the task force cochairs to enter into negotiations with Economists Incorporated.

Rep. Dee expressed concern with restrictive contracting practices and how it relates to vertical integration. He stated the RFP should look at how it affects the consumer and patient care. Economists Incorporated seemed to be working towards that area.

The Task Force voted on the substitute motion which failed in the Senate. Sen. Davis, Speaker Curtis, and Rep. Jones were absent for the vote.

The Task Force voted on the original motion which failed on a voice vote. Sen. Davis, Speaker Curtis, and Rep. Jones were absent for the vote.

MOTION: Rep. Dunnigan moved to authorize staff and the task force cochairs to enter into negotiations with Economists Incorporated and refine the scope of the RFP as necessary and to bring it within budget if possible. If those issues can be agreed upon, the cochairs and staff are authorized to enter into a contract with Economists Incorporated. The motion passed with Rep. Lockhart voting in opposition. Sen. Davis, Speaker Curtis, and Rep. Jones were absent for the vote.

4. Other Items / Adjourn

The next meeting of the Task Force was scheduled for Tuesday, November 29 at 9:00 a.m.

MOTION: Sen. Mayne moved to adjourn. The motion passed unanimously.

Chair Waddoups adjourned the meeting at 1:00 p.m.